

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 800**

Introduced by Jensen, 20

Read first time January 20, 1999

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to dentistry; to amend sections 71-183.01,  
2 71-183.02, 71-193.13 to 71-193.17, 71-193.28, 71-193.31,  
3 and 71-3507, Reissue Revised Statutes of Nebraska; to  
4 change provisions relating to dental auxiliaries; to  
5 harmonize provisions; and to repeal the original  
6 sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 71-183.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   71-183.01. Nothing in section 71-183 shall apply to the  
4 following practices, acts, and operations:

5                   (1) To the practice of his or her profession by a  
6 physician or surgeon licensed as such under the laws of this state  
7 unless he or she practices dentistry as a specialty;

8                   (2) To the giving by a qualified anesthetist or  
9 registered nurse of an anesthetic for a dental operation under the  
10 direct supervision of a licensed dentist or physician;

11                  (3) The practice of dentistry in the discharge of their  
12 official duties by graduate dentists or dental surgeons in the  
13 United States Army, Navy, Public Health Service, Coast Guard, or  
14 Department of Veterans Affairs;

15                  (4) The practice of dentistry by a licensed dentist of  
16 other states or countries at meetings of the Nebraska Dental  
17 Association or components thereof, or other like dental  
18 organizations approved by the board, while appearing as clinicians;

19                  (5) To the filling of work authorizations of a licensed  
20 and registered dentist as provided in this subdivision by any  
21 person or persons, association, corporation, or other entity for  
22 the construction, reproduction, or repair of prosthetic dentures,  
23 bridges, plates, or appliances to be used or worn as substitutes  
24 for natural teeth if such person or persons, association,  
25 corporation, or other entity does not solicit or advertise,  
26 directly or indirectly by mail, card, newspaper, pamphlet, radio,  
27 or otherwise, to the general public to construct, reproduce, or  
28 repair prosthetic dentures, bridges, plates, or other appliances to

1 be used or worn as substitutes for natural teeth;

2 (6) To the use of roentgen or X-ray machines or other  
3 rays for making radiograms or similar records of dental or oral  
4 tissues under the supervision of a licensed dentist or physician if  
5 such service is not advertised by any name whatever as an aid or  
6 inducement to secure dental patronage, and no person shall  
7 advertise that he or she has, leases, owns, or operates a roentgen  
8 or X-ray machine for the purpose of making dental radiograms of the  
9 human teeth or tissues or the oral cavity or administering  
10 treatment thereto for any disease thereof;

11 (7) To the performance by a licensed dental hygienist,  
12 under the supervision of a licensed dentist, of the oral  
13 prophylaxis procedure which shall include the scaling and polishing  
14 of teeth and such additional procedures as are prescribed in  
15 accordance with rules and regulations adopted by the Department of  
16 Health and Human Services Regulation and Licensure;

17 (8) To the performance by a dental ~~auxiliary other than~~  
18 assistant or a licensed dental hygienist, under the supervision of  
19 a licensed dentist, of duties prescribed in accordance with rules  
20 and regulations adopted by the ~~Department of Health and Human~~  
21 ~~Services Regulation and Licensure~~ department; or

22 (9) To the performance by a licensed dental hygienist, by  
23 virtue of training and professional ability, under the supervision  
24 of a licensed dentist, of taking dental roentgenograms. Any other  
25 person is hereby authorized, under the supervision of a licensed  
26 dentist, to take dental roentgenograms but shall not be authorized  
27 to do so until he or she has satisfactorily completed a course in  
28 dental radiology recommended by the Board of Examiners in Dentistry

1 and approved by the Department of Health and Human Services  
2 Regulation and Licensure department.

3 Sec. 2. Section 71-183.02, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-183.02. For purposes of sections 71-183 to ~~71-193.14~~  
6 71-193.20, dental assistant shall mean a person, other than a  
7 dental hygienist, employed by a licensed dentist for the purpose of  
8 assisting such dentist in the performance of his or her clinical  
9 and clinical-related duties.

10 Sec. 3. Section 71-193.13, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-193.13. Any licensed dentist, public institution, or  
13 school may employ dental ~~auxiliaries~~ assistants, in addition to  
14 licensed dental hygienists. Such dental ~~auxiliaries~~ assistants,  
15 under the supervision of a licensed dentist, may perform such  
16 duties as are prescribed in accordance with rules and regulations  
17 adopted and promulgated by the Department of Health and Human  
18 Services Regulation and Licensure.

19 Sec. 4. Section 71-193.14, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-193.14. The Board of Examiners in Dentistry shall  
22 recommend rules and regulations to the Department of Health and  
23 Human Services Regulation and Licensure governing the performance  
24 of duties by licensed dental hygienists and ~~other~~ dental  
25 ~~auxiliaries~~ assistants. The Department of Health and Human  
26 ~~Services Regulation and Licensure department~~ shall adopt rules and  
27 regulations for such purpose upon the recommendations being  
28 submitted by the ~~Board of Examiners in Dentistry~~ board.

1                   Sec. 5. Section 71-193.15, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-193.15. A licensed dental hygienist shall perform the  
4 traditional dental hygiene functions set forth in section 71-193.17  
5 only when authorized to do so by a licensed dentist who shall be  
6 responsible for the total oral health care of the patient. The  
7 Department of Health and Human Services Regulation and Licensure in  
8 the conduct of public health-related services may authorize a  
9 licensed dental hygienist to conduct preliminary charting and  
10 screening examinations, provide oral health education for patients  
11 including the teaching of appropriate plaque control techniques,  
12 and perform or provide all of the duties that any ~~other~~ dental  
13 ~~auxiliary~~ assistant is authorized to perform.

14                  Sec. 6. Section 71-193.16, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16                  71-193.16. As used in sections 71-183 to 71-193.20, (1)  
17 general supervision ~~shall mean~~ means the directing of the  
18 authorized activities of a dental hygienist or ~~other~~ dental  
19 ~~auxiliary~~ assistant by a licensed dentist and shall not be  
20 construed to require the physical presence of the supervisor when  
21 directing such activities and (2) indirect supervision ~~shall mean~~  
22 means supervision when the licensed dentist authorizes the  
23 procedure to be performed by a dental hygienist or dental ~~auxiliary~~  
24 assistant and the licensed dentist is physically present on the  
25 premises when such procedure is being performed by the dental  
26 ~~auxiliary~~ hygienist or dental assistant.

27                  Sec. 7. Section 71-193.17, Reissue Revised Statutes of  
28 Nebraska, is amended to read:

1                   71-193.17.     When properly authorized, a licensed dental  
2   hygienist, under the general supervision of a licensed dentist, may  
3   perform the following intra and extra oral procedures:

4                   (1)   Scaling   of teeth, including subgingival regions and  
5   root planing with hand and ultrasonic instruments;

6                   (2)   Polish all exposed tooth surfaces with motor-driven  
7   and hand instruments in the oral prophylaxis procedure, including  
8   polishing amalgam restorations;

9                   (3)   Conduct preliminary charting and screening  
10  examinations;

11                  (4)   Periodontal probing and charting;

12                  (5)   Gingival curettage;

13                  (6)   Place and remove periodontal dressings;

14                  (7)   Remove sutures;

15                  (8)   Provide preventive measures, such as the application  
16  of fluorides, sealants, and other recognized topical agents for the  
17  prevention of oral disease;

18                  (9)   Provide impressions for study casts;

19                  (10)  Apply topical desensitizing agents;

20                  (11)  Provide radiographic exposures;

21                  (12)  Provide oral health education for patients including  
22  the teaching of appropriate plaque control techniques; and

23                  (13)  Perform or provide all of the duties that any ~~other~~  
24  dental ~~auxiliary~~ assistant is authorized to perform.

25                  Sec. 8.   Section 71-193.28, Reissue Revised Statutes of  
26  Nebraska, is amended to read:

27                  71-193.28.   General anesthesia and parenteral sedation  
28  shall not be administered by a dentist without the presence and

1 assistance of ~~one or more dental auxiliaries~~ a dental hygienist or  
2 a dental assistant.

3 Sec. 9. Section 71-193.31, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 71-193.31. Permits issued by the board pursuant to  
6 sections 71-193.26, 71-193.27, and 71-193.29 shall be valid for  
7 four years. The department, upon the recommendation of the board,  
8 shall adopt and promulgate rules and regulations to define criteria  
9 for the reevaluation of credentials, facilities, equipment, dental  
10 ~~auxiliary personnel~~ hygienists or dental assistants, and procedures  
11 of a previously qualified dentist to renew his or her permit for  
12 each additional four-year period.

13 The department shall adopt and promulgate rules and  
14 regulations setting the fees for issuance of any of the permits  
15 specified in such sections at not less than fifty dollars nor more  
16 than two hundred dollars. A fee of not less than twenty-five  
17 dollars nor more than one hundred dollars shall be charged for  
18 renewal of any of such permits.

19 Sec. 10. Section 71-3507, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 71-3507. (1) The department shall adopt and promulgate  
22 rules and regulations for the issuance, amendment, suspension, and  
23 revocation of general and specific licenses. Such licenses shall  
24 be for byproduct material, source material, special nuclear  
25 material, and radioactive material not under the authority of the  
26 federal Nuclear Regulatory Commission and for devices or equipment  
27 utilizing such materials. The rules and regulations shall provide:

28 (a) For written applications for a specific license which

1 include the technical, financial, and other qualifications  
2 determined by the department to be reasonable and necessary to  
3 protect occupational and public health and safety and the  
4 environment;

5 (b) For additional written statements and inspections, as  
6 required by the department, at any time after filing an application  
7 for a specific license and before the expiration of the license to  
8 determine whether the license should be issued, amended, suspended,  
9 or revoked;

10 (c) That all applications and statements be signed by the  
11 applicant or licensee;

12 (d) The form, terms, and conditions of general and  
13 specific licenses;

14 (e) That no license or right to possess or utilize  
15 sources of radiation granted by a license shall be assigned or in  
16 any manner disposed of without the written consent of the  
17 department; and

18 (f) That the terms and conditions of all licenses are  
19 subject to amendment by rules, regulations, or orders issued by the  
20 department.

21 (2) The department may require registration or licensing  
22 of radioactive material not enumerated in subsection (1) of this  
23 section in order to maintain compatibility and equivalency with the  
24 standards and regulatory programs of the federal government or to  
25 protect the occupational and public health and safety and the  
26 environment.

27 (3) The department shall require licensure of persons  
28 providing measurement and mitigation services of radon or its decay



1 products in order to protect the occupational and public health and  
2 safety and the environment. The department shall adopt and  
3 promulgate rules and regulations establishing education,  
4 experience, training, and examination requirements for radon  
5 measurement specialists, radon measurement technicians, radon  
6 mitigation specialists, and radon mitigation technicians. The  
7 department shall adopt and promulgate rules and regulations  
8 establishing staffing, proficiency, quality control, reporting,  
9 worker health and safety, equipment, and record-keeping  
10 requirements for radon measurement businesses and radon mitigation  
11 businesses and mitigation system installation requirements for  
12 radon mitigation businesses.

13 (4) The department shall license persons practicing  
14 medical radiography, including medical radiographers and limited  
15 radiographers, in order to protect the occupational and public  
16 health and safety and the environment. The licenses shall be  
17 renewable biennially. For medical radiographers and limited  
18 radiographers, the department shall adopt and promulgate rules and  
19 regulations establishing examination requirements for licensure,  
20 continuing education requirements for renewal of a license, and  
21 approval requirements for examinations. For medical radiographers,  
22 the department shall adopt and promulgate rules and regulations  
23 establishing requirements for education and training and for  
24 approval of courses of training. Persons authorized under sections  
25 71-193.15 and 71-193.17 to practice as dental hygienists and dental  
26 ~~auxiliaries~~ assistants who meet the requirements of section  
27 71-193.13 shall not be required to be licensed under this section.

28 (5) The department may exempt certain sources of

1 radiation or kinds of uses or users from licensing or registration  
2 requirements established under the Radiation Control Act when the  
3 department finds that the exemption will not constitute a  
4 significant risk to occupational and public health and safety and  
5 the environment.

6 (6) The department may provide by rule and regulation for  
7 the recognition of other state or federal licenses compatible and  
8 equivalent with the standards established by the department for  
9 Nebraska licensees.

10 (7) The department may enter at all reasonable times upon  
11 any private or public property for the purpose of determining  
12 whether or not there is compliance with the act and rules and  
13 regulations adopted and promulgated pursuant to the act, except  
14 that entry into areas under the jurisdiction of the federal  
15 government shall be effected only with the concurrence of the  
16 federal government or its duly designated representative.

17 (8) The department shall cause to be registered with the  
18 department such sources of radiation as the department determines  
19 to be reasonably necessary to protect occupational and public  
20 health and safety and the environment as follows:

21 (a) The department shall, by public notice, establish a  
22 date on or before which date such sources of radiation shall be  
23 registered with the department, and the department shall provide  
24 appropriate forms for such registration. Each application for  
25 registration shall be in writing and shall state such information  
26 as the department by rules or regulations may determine to be  
27 necessary and reasonable to protect occupational and public health  
28 and safety and the environment;

1           (b) Registration of sources of radiation shall be an  
2 initial registration with appropriate notification to the  
3 department in the case of alteration of equipment, acquisition of  
4 new sources of radiation, or the transfer, loss, or destruction of  
5 sources of radiation and shall include the registration of persons  
6 installing or servicing sources of radiation;

7           (c) Failure to register or reregister sources of  
8 radiation in accordance with rules and regulations adopted and  
9 promulgated by the department shall be subject to a fine of not  
10 less than fifty dollars nor more than two hundred dollars; and

11           (d) The department may provide by rule and regulation for  
12 reregistration of sources of radiation.

13           (9) The results of any surveys or inspections of sources  
14 of radiation conducted by the department shall be public records  
15 subject to sections 84-712 to 84-712.09. In addition, the  
16 following information shall be deemed confidential:

17           (a) The names of individuals in dosimetry reports;

18           (b) Emergency response procedures which would present a  
19 clear threat to security or disclose names of individuals; and

20           (c) Any other information that is likely to present a  
21 clear threat to the security of radioactive material. The  
22 department shall make such reports of results of surveys or  
23 inspections available to the owner or operator of the source of  
24 radiation together with any recommendations of the department  
25 regarding deficiencies noted.

26           (10) The department shall have the right to survey or  
27 inspect again any source of radiation previously surveyed without  
28 limitation of the number of surveys or inspections conducted on a

1 given source of radiation.

2 (11) The department may enter into contracts with persons  
3 or corporations to perform the inspection of X-ray  
4 radiation-generating equipment or devices which emit radiation from  
5 radioactive materials and to aid the department in the  
6 administration of the act.

7 Sec. 11. Original sections 71-183.01, 71-183.02,  
8 71-193.13 to 71-193.17, 71-193.28, 71-193.31, and 71-3507, Reissue  
9 Revised Statutes of Nebraska, are repealed.